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NW

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/488,079 01/20/00 MONTAGUE

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EXAMINER

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TESFAMARIAM, M

ART UNIT

PAPER NUMBER

2162

DATE MAILED:

07/10/01

16

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

NW

Office Action Summary

Application No.

09/488,079

Applicant(s)

David R. Montague

Examiner

Mussie Tesfamariam

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– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Apr 25, 2001
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirements.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____

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DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baron et al, 5809481 in view of Blum et al, 5805164.

As per claim 1, Baron et al disclose a label configured to be affixed to a product; See the abstract, fig 1, fig 2, col 4, lines 22-30, the product having a surface associated therewith; the label configured to directly communicate first information corresponding to at least one of the product and a source of the product; See the abstract, fig 1, fig 2, col 4, lines 22-30, col 5, lines 48-51, and a computer-readable medium, storing instructions executable by a computer of a purchaser of the product, coupled to the product by the label. See the abstract, fig 1, fig 2, col 4, lines 22-30, col 5, lines 48-51, col 6, lines 23-27, col 7, lines 14-18, col 9, lines 35-47. However, he fails specifically to disclose in a computer readable medium, storing instructions executable by a computer of a purchaser of the product, coupled to the product by the label. Blum et al disclose in a computer readable medium, storing instructions executable by a computer of a purchaser of the product, coupled to the product by the label. See col 8, lines 13-15, 23-26, 47-57. Therefore, it

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would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Baron to use a computer readable medium, storing instructions executable by a computer of a purchaser of the product. This is because it would improve Baron's system to have computerized labelling system.

3. Claim 2, 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baron et al, 5809481 in view of Blum et al, 5805164 as applied to claim 1 above, and further in view of Dlugos, Sr. et al, 5153842.

As per claim 2, Baron et al disclose in marketing database printed in a spreadsheet format. However, he fails specifically to disclose in the first information is printed on the label. Dlugos, Sr. et al disclose in the first information is printed on the label. See col 2, lines 14-17, col 3, lines 19-22. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Baron such that it will print the information on the label. This is because it would improve Baron's system to have visible information on the label.

As per claim 4, Baron et al disclose in the formats of display advertisement. See col 6, lines 28-30. However, he fails specifically to disclose in the label is shaped to provide the first information through a shape. Dlugos, Sr. et al disclose in the label is shaped to provide the first information through a shape. See fig 1a, fig 6, col 3, lines 9-15. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of

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Baron such that it will provide the first information through a shape. This is because it would improve Baron's system to have easily available information through the shaped label.

4. Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baron et al, 5809481 in view of Blum et al, 5805164 as applied to claim 1 above, and further in view of Christensen et al, 5710886.

As per claim 5, Baron et al disclose a label configured to be affixed to a product; the product having a surface associated therewith; the label configured to directly communicate first information corresponding to at least one of the product and a source of the product; and a computer-readable medium coupled to the product by the label. See the abstract, fig 1, fig 2, col 4, lines 22-30, col 5, lines 48-51, col 6, lines 23-27, col 7, lines 14-18, col 9, lines 35-47.

However, he fails to disclose in at least one of product facts, source facts, a test, a browser, a launcher, and a network identifier. Christensen et al disclose in at least one of product facts, source facts, a test, a browser, a launcher, and a network identifier. See fig 6, fig 11, fig 12, col 8, lines 66-67. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Baron such that it will contain information mentioned in the above. This is because it would improve Baron's system to have vast gathering of information.

As per claim 6, Baron et al disclose a label configured to be affixed to a product; the product having a surface associated therewith; the label configured to directly communicate first information corresponding to at least one of the product and a source of the product; and a

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computer-readable medium coupled to the product by the label. See the abstract, fig 1, fig 2, col 4, lines 22-30, col 5, lines 48-51, col 6, lines 23-27, col 7, lines 14-18, col 9, lines 35-47.

However, he fails to disclose in at least one of a garment, footwear, headgear, a foodstuff, furniture, an appliance, sporting goods, dry goods, a tool, and a plant. Christensen et al disclose in at least one of a garment, footwear, headgear, a foodstuff, furniture, an appliance, sporting goods, dry goods, a tool, and a plant. See fig 6, fig 12, fig 13, fig 14, column 1, lines 13-20, col 8, lines 58-62. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Baron such that it will contain information mentioned in the above. This is because it would improve Baron's system to have variety of product information.

As per claim 7, Baron et al disclose in the product to protect the label prior to purchase. See the abstract, col 6, lines 23-26.

As per claim 8, Baron et al disclose in a hang tag, substantially enclosing the computer-readable medium. See the abstract, col 4, lines 28-30, 51-54, col 9, lines 31-32.

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baron et al, 5809481 in view of Blum et al, 5805164 and Dlugos, Sr. et al, 5153842 as applied to claim 2 above, and further in view of Markman, 5794213.

As per claim 3, Baron et al disclose in a label configured to be affixed to a product; the product having a surface associated therewith; the label configured to directly communicate first information corresponding to at least one of the product and a source of the product; and a

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computer-readable medium coupled to the product by the label. See the abstract, fig 1, fig 2, col 4, lines 22-30, col 5, lines 48-51, col 6, lines 23-27, col 7, lines 14-18, col 9, lines 35-47.

However, he fails specifically to disclose in a selection of color on the label. See the abstract, col 1, lines 41-44, 56, col 3, lines 22-25. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Baron such that it will select color on the label. This is because it would improve Baron's system to have visible information on the label.

6. Claim 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baron et al, 5809481 in view of Blum et al, 5805164 as applied to claim 1 above, and further in view of Tsai et al, 5825292.

As per claim 9, disclose in a computer-readable medium coupled to the product by the label. See the abstract, fig 1, fig 2, col 4, lines 22-30, col 5, lines 48-51, col 6, lines 23-27, col 7, lines 14-18, col 9, lines 35-47. However, he fails specifically to disclose in at least one of a printed medium, an electromagnetic medium, an optical medium, and a firmware medium. Tsai et al disclose in at least one of a printed medium, an electromagnetic medium, an optical medium, and a firmware medium. See the abstract, fig 1, col 1, lines 39-49, 62-67. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Baron such that it will include at least one of the mentioned medium in the above. This is because it would improve Baron's system to have different kinds of media.

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As per claim 10, Baron et al disclose in a computer-readable medium coupled to the product by the label. See the abstract, fig 1, fig 2, col 2, lines 18-10, col 4, lines 22-30, col 5, lines 48-51, col 6, lines 23-27, col 7, lines 14-18, col 9, lines 35-47. However, he fails specifically to disclose in at least one of the formats including compact disk, floppy disk, digital video disk, magnetic strip, bar code, symbolic code, and an embedded chip. Tsai et al disclose in at least one of the formats including compact disk, floppy disk, digital video disk, magnetic strip, bar code, symbolic code, and an embedded chip. See the abstract, fig 1, col 1, lines 19-14, 39-49, col 2, lines 1-1-10, 45-50. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Baron such that it will include at least one of the mentioned medium in the above. This is because it would improve Baron's system to have different kinds of media formatted in different ways.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

8. Claim 11-12, 14, 18, 19, 21, 23, 24-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Dlugos, Sr. et al, 5153842.

As per claim 11, Dlugos, Sr. et al disclose a label configured to be affixed to packaging substantially enclosing a product, and the packaging having an exterior; see the abstract, col 1,

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lines 1-10, 20-27, 60-67, col 2, lines 21-24, the label configured to directly communicate first information corresponding to at least one of the product and a source of the product; col 6, lines 34, col 7, lines 35, col 8, lines 43-51. and the packaging substantially the product; and a computer-readable medium coupled to the packaging by the label and containing instructions executable on a computer of a user. See the abstract, col 1, lines 1-10, 20-27, 60-67, col 2, lines 21-24, col 6, lines 34, col 7, lines 35, col 8, lines 43-51.

As per claim 12, Dlugos, Sr. et al disclose in the first information is printed on the label. See col 2, lines 15-17.

As per claim 14 Dlugos, Sr. et al disclose in the first information is printed on the label. See col 2, lines 14-17, col 3, lines 19-22, col 15, lines 24-27.

As per claim 18, Dlugos, Sr. et al disclose a label configured to be affixed to a product, the product having an exterior; See the abstract, fig 1, fig 2, the label configured to be attached to a tether having a first end and a second end; the first end configured to be coupled to the label; col 1, lines 1-10, 20-27, 60-67, col 2, lines 21-24 the second end configured to be coupled to the exterior of the product, such that the tether couples the label to the exterior of the product; col 6, lines 34, col 7, lines 35, col 8, lines 43-51, the label configured to directly communicate first information corresponding to at least one of the product and a source of the product; See the abstract, col 1, lines 1-10, 20-27, 60-67, col 2, lines 21-24, col 6, lines 34, and a computer - readable medium coupled to the label and containing instructions executable of a computer of a

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user. See the abstract, col 1, lines 1-10, 20-27, 60-67, col 2, lines 21-24, col 6, lines 34, col 7, lines 35, col 8, lines 43-51.

As per claim 19, Dlugos, Sr. et al disclose in the first information is printed on the label. See col 2, lines 15-17.

As per claim 21, Dlugos, Sr. et al disclose in the first information is printed on the label. See col 2, lines 14-17, col 3, lines 19-22, col 15, lines 24-27.

As per claim 23, Dlugos, Sr. et al disclose the product defines an opening into an interior of the product and at least part of the label is positioned in the interior of the product. See col 1, lines 1-10, 20-27, 60-67, col 2, lines 21-24, col 6, lines 34, col 7, lines 35, col 8, lines 43-51.

As per claim 24, Dlugos, Sr. et al disclose in configuring a label to directly communicate first information corresponding to at least one of a product and a source of the product; coupling a computer-readable medium to the label; and coupling the label to an exterior of the product. See col 1, lines 1-10, 20-27, 60-67, col 2, lines 21-24, col 6, lines 34, col 7, lines 35, col 8, lines 43-51.

As per claim 25, Dlugos, Sr. et al disclose in the product is packaged. See col 1, lines 1-10, 20-27, 60-67.

As per claim 26, Dlugos, Sr. et al disclose in the label to the exterior of the product by a flexible member. See col 1, lines 1-10, 20-27, 60-67, col 2, lines 21-24.

9. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dlugos, Sr. et al, 5153842 as applied to claim 12 above, and further in view of Markman, 5794213.

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As per claim 13, Dlugos, Sr. et al disclose a label configured to be affixed to packaging substantially enclosing a product, and the packaging having an exterior; the label configured to directly communicate first information corresponding to at least one of the product and a source of the product; and the packaging substantially the product; and a computer-readable medium coupled to the product by the label. See the abstract, col 1, lines 1-10, 20-27, 60-67, col 2, lines 21-24, col 6, lines 34, col 7, lines 35, col 8, lines 43-51. However, he fails specifically to disclose in a selection of color on the label. See the abstract, col 1, lines 41-44, 56, col 3, lines 22-25. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Baron such that it will select color on the label. This is because it would improve Baron's system to have visible information on the label.

10. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dlugos, Sr. et al, 5153842 as applied to claim 19 above, and further in view of Markman, 5794213.

As per claim 3, Dlugos, Sr. et al disclose a label configured to be affixed to packaging substantially enclosing a product, and the packaging having an exterior; the label configured to directly communicate first information corresponding to at least one of the product and a source of the product; and the packaging substantially the product; and a computer-readable medium coupled to the product by the label. See the abstract, col 1, lines 1-10, 20-27, 60-67, col 2, lines 21-24, col 6, lines 34, col 7, lines 35, col 8, lines 43-51. However, he fails specifically to disclose in a selection of color on the label. See the abstract, col 1, lines 41-44, 56, col 3, lines 22-25.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the

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invention was made to modify the system of Baron such that it will select color on the label. This is because it would improve Baron's system to have visible information on the label.

11. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dlugos, Sr. et al, 5153842 as applied to claim 11 above, and further in view of Christensen et al, 5710886.

As per claim 15, Dlugos, Sr. et al disclose a label configured to be affixed to packaging substantially enclosing a product, and the packaging having an exterior; the label configured to directly communicate first information corresponding to at least one of the product and a source of the product; and the packaging substantially the product; and a computer-readable medium coupled to the product by the label. See the abstract, col 1, lines 1-10, 20-27, 60-67, col 2, lines 21-24, col 6, lines 34, col 7, lines 35, col 8, lines 43-51. However, he fails to disclose in at least one of product facts, source facts, a test, a browser, a launcher, and a network identifier.

Christensen et al disclose in at least one of product facts, source facts, a test, a browser, a launcher, and a network identifier. See fig 6, fig 11, fig 12, col 8, lines 66-67. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Baron such that it will contain information mentioned in the above. This is because it would improve Baron's system to have vast gathering of information.

12. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dlugos, Sr. et al, 5153842 as applied to claim 11 above, and further in view of Baron et al, 5809481.

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As per claim 16, Dlugos, Sr. et al disclose a label configured to be affixed to packaging substantially enclosing a product, and the packaging having an exterior; the label configured to directly communicate first information corresponding to at least one of the product and a source of the product; and the packaging substantially the product; and a computer-readable medium coupled to the product by the label. See the abstract, col 1, lines 1-10, 20-27, 60-67, col 2, lines 21-24, col 6, lines 34, col 7, lines 35, col 8, lines 43-51. However, he fails to disclose in a hang tag, substantially enclosing the computer-readable medium. Baron et al disclose in a hang tag, substantially enclosing the computer-readable medium. See the abstract, col 4, lines 28-30, 51-54, col 9, lines 31-32. Therefore, it would have been obvious ordinary skill in the art at the time the invention was made to modify the system of Dlugos, Sr. et al such that it will include a hanging tag. This is because it would improve Dlugos' system to have different kinds of tags.

13. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dlugos, Sr. et al, 5153842 as applied to claim 11 above, and further in view of Tsai et al, 5825292.

As per claim 9, disclose in a computer-readable medium coupled to the product by the label. See the abstract, fig 1, fig 2, col 4, lines 22-30, col 5, lines 48-51, col 6, lines 23-27, col 7, lines 14-18, col 9, lines 35-47. However, he fails specifically to disclose in at least one of a printed medium, an electromagnetic medium, an optical medium, and a firmware medium. Tsai et al disclose in at least one of a printed medium, an electromagnetic medium, an optical medium, and a firmware medium. See the abstract, fig 1, col 1, lines 39-49, 62-67. Therefore, it would have been

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obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Baron such that it will include at least one of the mentioned medium in the above. This is because it would improve Baron's system to have different kinds of media.

14. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dlugos, Sr. et al, 5153842 as applied to claim 18 above, and further in view of Christensen et al, 5710886.

As per claim 15, Dlugos, Sr. et al disclose a label configured to be affixed to packaging substantially enclosing a product, and the packaging having an exterior; the label configured to directly communicate first information corresponding to at least one of the product and a source of the product; and the packaging substantially the product; and a computer-readable medium coupled to the product by the label. See the abstract, col 1, lines 1-10, 20-27, 60-67, col 2, lines 21-24, col 6, lines 34, col 7, lines 35, col 8, lines 43-51. However, he fails to disclose in at least one of product facts, source facts, a test, a browser, a launcher, and a network identifier.

Christensen et al disclose in at least one of product facts, source facts, a test, a browser, a launcher, and a network identifier. See fig 6, fig 11, fig 12, col 8, lines 66-67. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Baron such that it will contain information mentioned in the above. This is because it would improve Baron's system to have vast gathering of information.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Mussie Tesfamariam** whose telephone number is **(703)305-1393**. The examiner can normally be reached on Monday - Friday from 8:00 a.m. to 5:00 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ^{ERIC STAMBER} ~~Jim Trammell~~ can be reached at ³⁰⁵⁻⁸⁴⁶⁹ ~~(703) 305-9768~~.

Any response to this office action should be mailed to:

Commissioner of Patents and Trademarks

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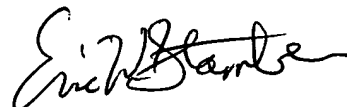
"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to **Crystal park II, 2121 Crystal Drive**

Arlington, Virginia, (Receptionist).

Mussie Tesfamariam

July 2, 2001



**ERIC W. STAMBER
PRIMARY EXAMINER**